

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

)
) MDL # 1456
)

) Master File No. 1:01-CV-12257-PBS
) Sub-Category Case No. 1:08-CV-11200
)

THIS DOCUMENT RELATES TO
*United States ex rel. Linnette Sun and Greg
Hamilton, Relators*
v.
Baxter Healthcare Corporation

) Judge Patti B. Saris
)
)
)
)
)
)

**DECLARATION OF MARK ALLEN KLEIMAN IN SUPPORT
OF RELATORS' MEMORANDUM IN OPPOSITION TO
MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Mark Allen Kleiman, hereby declare as follows:

I am an attorney licensed to practice before all courts in the State of California and have been admitted *pro hac vice* for purposes of representing the Relators herein in this MDL. If called upon to do so, I could and would testify competently to the following based upon firsthand knowledge:

1. Attached as Exhibit "A" is a true and correct copy of the Statement of the United States Regarding the Consent of the United States to the Dismissal With Prejudice of Claims Pursuant to 31 U.S.C. § 3730 (B) (1) in a Related Matter, [Document 7897, Case No. 1:01-cv-12257-PBS, Nov. 14, 2011.].

2. Attached as Exhibit “B” is a true and correct copy of Relator Ven-A-Care of the Florida Keys, Inc.'s Amended Complaint Against Baxter Healthcare Corp. and Baxter International, Inc. For Violations of the False Claims Act. 31 U.S.C. §3729, et seq. [Document 1, Case No. 1:10-cv-11186,-PBS, May 28, 2010.]

3. Attached as Exhibit “C” is a true and correct copy of Memorandum and Order of March 25, 2010 in the Sun/Hamilton case. [Case No. 1:01-cv-12257-PBS, Doc. 7008.]

4. Attached as Exhibit “D” is a true and correct copy of Consent of the United States of America to the Relator’s Dismissal with Prejudice of Claims Pursuant to 31 U.S.C. § 3730 (b) [Case No. 1:01-cv-12257-PBS, Doc. 7831-1 at 1 (July 29, 2011).]

I declare under penalty of perjury under the laws of the State of California and the District of Columbia that the foregoing is true and correct. Executed this 14th day of November, 2011, in Washington, D.C.

/s/ Mark Allen Kleiman

Mark Allen Kleiman

CERTIFICATION OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing
DECLARATION OF MARK ALLEN KLEIMAN IN SUPPORT OF RELATORS’
MEMORANDUM IN OPPOSITION TO MOTION FOR PARTIAL SUMMARY
JUDGMENT to be served on all counsel of record via electronic service by sending a copy to
LexisNexis File & Serve for posting and notification to all parties on November 14, 2011.

/s/ Mark Allen Kleiman
MARK ALLEN KLEIMAN